

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ANNETTE STOCKWELL and LAWRENCE  
STOCKWELL, husband and wife and the  
marital community comprised thereof,

Plaintiffs,

vs.

SAFEWAY, INC., a non-governmental foreign  
corporation d/b/a SAFEWAY STORE #792,  
and DOES 1-5,

Defendants.

No. 2:20-cv-01022-RAJ

AMENDED COMPLAINT

COMES NOW Annette Stockwell and Lawrence Stockwell, by and through their undersigned counsel of record, John J. Polito, and for a claim of relief against defendants allege by way of amended Complaint pursuant to FRCP 15(a)(1)(B) as follows:

I. PARTIES

1. Plaintiffs Annette Stockwell and Lawrence Stockwell are husband and wife and currently reside in Ocean Shores, Grays Harbor County, Washington.

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1           2.     At all material times herein Defendant Safeway, Inc. was a Delaware  
2 Corporation and owned and operated Safeway Store #792 located at 17023 SE 272<sup>nd</sup>,  
3 Covington, King County, Washington. Said defendant is believed to have paid all licenses and  
4 fees to date and continues to do business in King County, Washington.  
5

6           3.     Defendants Does 1 - 5 are unknown to Plaintiffs at this time and they are  
7 therefore sued under fictitious names. These Defendants may have caused the damages to  
8 Plaintiffs by their own tortious conduct, including acts or failures to act, whether individually,  
9 in concert with other defendants or vicariously.  
10

## 11                                   II. JURISDICTION AND VENUE

12           4.     The acts and omissions giving rise to this cause of action occurred on the subject  
13 premises, Safeway Store #792, located in Covington, King County, Washington where  
14 Defendants Safeway conducts business.  
15

16           5.     Defendants properly removed this case from King County Superior Court and  
17 jurisdiction and venue are appropriate in the United States District Court for the Western  
18 District of Washington pursuant to 28 USC § 1332(a)(1), 28 USC § 1441(a), and 28 USC §  
19 1391(b)(2).  
20

## 21                                   III. FACTS

22           6.     On June 21, 2017, Plaintiff Annette Stockwell was shopping as a business invitee  
23 at the Safeway Store #792 in Covington, King County, Washington.  
24

25           7.     While at the subject Safeway store, Plaintiff Annette Stockwell went into the cheese  
26 and dairy aisle and slipped and fell on yogurt that had spilled onto the floor a result of  
27 employee(s) stocking the shelves while acting within the course and scope of their employment.  
28

COMPLAINT -- 2

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1           8. Defendant's employee(s) admitted they had spilled the yogurt, had prior actual  
2 and/or constructive notice of the yogurt spill on the floor which constituted an unsafe condition,  
3 and failed to take reasonable steps to remove the unsafe condition or warn of its existence.  
4

5           9. Plaintiff Annette Stockwell suffered significant injuries as a result of the fall.

6                           IV. CLAIMS AND CAUSES OF ACTION

7           10. As an owner and occupier of the premises, Defendants owed to business invitees  
8 such as Plaintiff Annette Stockwell a non-delegable duty to exercise ordinary care for their  
9 safety. This includes the exercise of ordinary care to maintain in a reasonably safe condition  
10 those portions of the premises that the invitee is expressly or impliedly invited to use or might  
11 reasonably be expected to use.  
12

13           11. Defendants were negligent and failed to exercise ordinary care in the creation,  
14 operation and maintenance of its self-service store. The Defendants through its agents,  
15 employees or other persons created the hazardous and unsafe condition of the yogurt on the  
16 floor, had actual and/or constructive notice of it, and failed to take reasonable steps to remove  
17 the unsafe condition or warn of its existence.  
18

19           12. Due to the self-service mode of operation at its grocery store, it was foreseeable  
20 to defendants that the cheese and dairy section of the store where this incident occurred would  
21 have hazardous items on its floor.  
22

23           13. Defendants failed to have adequate procedures in place to keep their premises  
24 free from foreseeable hazardous conditions and failed to properly maintain a safe premises.  
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26  
27

14. As a direct and proximate result of the negligence as described above, Plaintiff Annette Stockwell suffered personal injuries and special and general damages in an amount to be proven at trial.

15. At the time of the incident complained of in the plaintiffs' complaint, the Plaintiffs were married and that the Plaintiffs continue to be married.

16. As a result of the wrongful and negligent acts of the Defendants, and each of them, the Plaintiffs were caused to suffer, and will continue to suffer in the future, loss of consortium, loss of society, affection, assistance, and conjugal fellowship, all to the detriment of their marital relationship.

17. All of the foregoing allegations of fact and law are hereby alleged and asserted against any unknown entity, hereby referred to as Defendants Does 1 - 5.

## V. REQUEST FOR RELIEF

WHEREFORE, Plaintiffs pray, jointly and severally, for the following relief against Defendants as follows:

1. For all reasonable and necessary past and future medical expenses, pain and suffering, disfigurement, emotional distress, wage loss, loss of earning capacity, loss of enjoyment of life, loss of consortium, and other special and general damages in an amount to be proven at trial;

2. For all statutory and actual costs and disbursements;

3. For reasonable, statutory and actual attorney's fees;

4. For pre-judgment and post-judgment interest; and

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1  
2 5. For such further and other relief as the Court deems just and equitable.

3 DATED this 6th day of November, 2020.

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7 John J. Polito, WSBA #18150  
8 Attorney for Plaintiffs  
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COMPLAINT -- 5

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